

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
January 23, 2023

Planning Commissioners Present: Bill Branigan, Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and John Updike.

Planning Commissioners Absent: Gary East (*excused*).

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:05 p.m. On roll call, Commissioners Branigan, Patrick, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

A. **Approval of the Corrected Planning Commission Regular Session Meeting Minutes of November 28, 2022.**

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the previously approved Planning Commission Regular Session meeting minutes of November 28, 2022 as amended. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of January 9, 2023.**

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the Planning Commission Regular Session meeting minutes of January 9, 2023 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File 4-CUP-22: Final Order and Findings of Fact.**

MOTION was made by Commissioner Patrick, seconded by Commissioner Berman to approve the final order and findings of fact for File 4-CUP-22 with conditions of approval. The motion carried unanimously in a voice vote.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 7:08 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioner Berman reported a contact he had with Branigan to discuss a hearing item. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File 5-CUP-22: Conditional Use Permit Seeking Relief From a Short-Term Rental Land Use Standard:

Tokos reviewed the staff report. He acknowledged the testimony received from Maria Tesch who thought the request should be denied because the applicant had the ability to rent through the Embarcadero hotel. He explained that the applicant was arguing that the Embarcadero wasn't what the original short-term rental spacing standard was targeting because it was a location where you would expect to see transient use. Tokos thought the Commission had grounds to grant relief of this provision.

Berman asked if short-term rentals (STRs) inside the allowed zone were not subject to the density standard, but were subject to the spacing standard. Tokos explained that the density standards were a different provisions to limit the number of STR licenses inside the allowed zone to 176. Density was different from the spacing standards.

Patrick asked if this license counted toward the 176 license cap. Derrick confirm it did. Patrick asked how this policy applied to condo buildings like Nye Sands. Tokos explained this wasn't an issue for Nye Sands because they were eligible to license any of the units in the one building. Embarcadero had multiple buildings where some of the buildings didn't have licenses. Patrick asked if they would treat Embarcadero like Nye Sands. Tokos explained the Commission was considering an approval for just this unit. Berman asked why they didn't say a group of buildings in the language. Tokos explained this had been a topic the Work Group discussed to see if they wanted to change the wording. The group said no to this because they had concerns about other situations the might have clusters of buildings. They thought it should be done on a case by case basis in rare circumstances since the conditional use process was available for this. Hanselman asked if the 12 licenses at the Embarcadero counted toward the total 176. Tokos reported they were included, and were units that didn't want to rent through the Embarcadero hotel.

Escobar thought this request doesn't impact residential units for people moving to Newport. This was a commercial use and he didn't see any reason to oppose the application given the fact that other units had licenses in the Embarcadero.

Proponents: Seth Schuepbach addressed the Commission. He reported that this unit was already a rental and approving the request wouldn't impact anything. It had been built for short term rental use. Schuepbach stated he worked hard to make this rental nice for family vacations and for someone else to enjoy.

Berman asked why having the Embarcadero handle the operation of the unit wasn't satisfactory. Schuepbach reported that there had been damage done to his unit and lack of general maintenance. The management also has had a lot of turnover. Berman asked what his plans were for a local representative. Schuepbach would manage it and employ someone to service the unit.

Opponents: None were heard.

Chair Branigan closed the hearing at 7:32 p.m.

Patrick understood the Embarcadero had ongoing issues. He thought this would set precedence because the was a good chance the rest of the units at the property would apply for this. Patrick was originally against this. When it was explained that this was in a commercial zone, and the other condos like Nye Sands were allowed, it didn't make sense not to allow it at the Embarcadero.

Patrick was inclined to grant the request but thought they needed to address this in a couple of years.

Escobar was in favor of granting the conditional use. They already had 12 units in the complex and didn't feel this wouldn't set a new precedence. Escobar noted Tesch's testimony that said he needed to wait his turn for a license was wrong, because he already had. He was in favor of it because it was designed for transient housing.

Hanselman agreed and thought Schuepbach had the right to do this. He understood the reason why he didn't want to use the Embarcadero management. Hanselman supported it Berman stated he was inclined to support it. Updike agreed and was in favor of it. Branigan noted the Embarcadero was a resort and thought they should allow this.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to approve File 5-CUP-22 as presented. The motion carried unanimously in a voice vote.

B. File 1-CP-21: Comprehensive Plan Amendments to Adopt the Housing Capacity Analysis:

Tokos reviewed the staff report. Escobar asked if there was a deadline for the adoption. Tokos explained it was supposed to be done by the end of 2022 but the State understood that it hadn't been finished yet. It would be wrapped up by June 30, 2023. Tokos reported that both the Housing Production Strategy and the Housing Capacity Analysis would be in front of the Commission in a month or two.

MOTION was made by Commissioner Updike, seconded by Commissioner Escobar to make a favorable recommendation to the City Council for File 1-CP-21 as presented. The motion carried unanimously in a voice vote.

C. File 4-Z-22: Amendments to NMC Chapter 14.06 and 14.16 Related to RV and Tent Camping on Residential Lots:

Tokos reviewed the staff report and the changes to the code. Berman asked if the whole point of the changes to Chapter 14.06.050(5) was to exclude people from allowing someone to pitch a tent on an empty lot. Tokos explained that this was for RVs. The principal was that there be someone residing in a dwelling and who would make their dwelling unit available to the person in the RV. This commonly occurred when someone allowed a relative to utilize the dwelling while residing in the RV in the driveway. Berman questioned if the primary dwelling had to be occupied. Hanselman wanted to see it occupied and require the owners to be present. He thought the language needed to clarify it should be occupied.

Escobar pointed out the problems there had been with RVs parking in the city parking lot on Hurbert Street. He asked if there had been a groundswell within the community to have an RV parked in the driveway or in front of homes. Tokos explained there had been. There was an instance that a person wanted to have their daughter stay in an RV on their property. This RV wasn't parked in the driveway and a neighbor complained about it because of the proximity to their dwelling. Branigan asked if this applied to commercial properties as well as residential. Tokos reported it would as long as there was a dwelling unit on the property.

Berman asked what the rationale was to say sanitary facilities in the dwelling needed to be available to the persons in the RV. He asked why it didn't say the vehicle could be self-contained.

Tokos explained that they couldn't connect RVs to the sewer system waste drain and they would want them to use RV disposal sites. Berman asked if camper vans that weren't self-contained would be excluded. Tokos noted the language came from model codes and he suspected that this was a fail safe to say the dwelling needed to be made available for sanitary facilities.

Escobar asked if there was a time limit on how long they could park an RV. Tokos explained this would be six months. Patrick asked if the RV could connect to the dwelling's water and electric. Tokos reported there wasn't anything to say they couldn't connect to them.

Berman thought that saying the dwelling needed to be occupied would be good. Tokos didn't know how they could enforce this and reminded that the language stated the sanitary facilities needed to be made available to the vehicle occupants. Hanselman thought that when they were asking to put an RV in a residential area driveway they had an obligation to neighbors that the owner was there. If the neighbor wasn't there and the person in the RV wasn't acting appropriately, the neighbor wouldn't have the owner to talk to. Hanselman thought the owner needed to be present when someone parked an RV in their driveway. He thought they needed to protect neighbors. Patrick thought it would be okay if the owner gave his friend a key to enter the dwelling while they weren't present. He didn't see how they could enforce this. Patrick thought it would be okay if the vehicle occupants had a way to get in the house. Hanselman couldn't support this and wanted someone present who had a relationship with the person in the parking space.

Escobar wasn't too keen on his neighbor having an RV parked in their driveway. He saw the need for organized housing rather than the chaos of parking in a city parking lot.

Patrick asked if this would work when they had two lots that were under one tax lot. Tokos explained it would and was why the language was for a lot parcel or tract. In instances where there was a double lot and a dwelling, this would be okay.

Escobar asked if the Commission was married to the six month time limit. Tokos reported this was what the Commission suggested. Escobar suggested this should be six weeks. Tokos thought six months was more reasonable. The challenge was that once somebody was parked there, they wouldn't want it so tight on time because they weren't going to leave quickly. If they changed it to six weeks most people wouldn't do this. Escobar asked how neighborhood associations and covenants worked with this. Tokos explained the neighborhoods would enforce their covenants privately.

Chair Branigan closed the hearing closed 8:04 p.m.

Udike stated he was in favor of this.

Berman was in favor but didn't think many of these would be located in town. He thought that when a family needed this to help out another family member it was a fabulous thing to have available. Berman also thought that enforcement would be nonexistent and it would be hard to know if a RV was self-contained.

Hanselman liked the concept but couldn't support it without the addition to the language that the owner be present. He also preferred that it wasn't up to enforcement to police this.

Escobar was torn on this. He wouldn't want one at his neighbor, but thought temporary housing was needed. He had reservations for the six months timeframe, but supported it.

Patrick supported it. He thought they should implement it and look at it again in two to four years. Hanselman thought they should do a sunset clause. Patrick thought that was a bad idea. Hanselman was concerned that they wouldn't come back to review it.

Escobar decided he would now oppose it. He thought there were too many flaws that needed to be addressed and there didn't seem to be a consensus within the group.

Branigan was for it because he didn't think there would be that many cases where there was a need for someone to live in an RV to keep someone off the street. He knew of a person that had been living in an RV who had a key to a residence that was the owner's second home. Branigan noted this had been working for them, and was a unique situation where the home wasn't occupied. He was in favor of it.

Udike noted that in NMC Chapter 14.16.20 tent camping would be allowed as part of a lot with an "occupied dwelling". He asked if "occupied" was defined in the code. Tokos thought they could add a definition to add the clause "occupied" and modify "dwelling" relative to the allowance for RV's on an improved lot. He cautioned that they be careful on what they referred to in terms of occupied dwelling units. Tokos thought they could put it under Chapter 14.16.20(5). Berman thought they should consider taking out "occupied" for tents and put in that they needed to have access to the dwelling unit or sanitary facilities. Patrick wanted to include "occupied" for tents. Tokos noted that a tent wasn't self-contained and more of a transient type of arrangement.

MOTION was made by Commissioner Patrick, seconded by Commissioner Escobar to approve File 4-Z-22 with the addition that line five will read "a lot parcel or tract developed with an occupied dwelling unit provided." The motion carried in a voice vote. Berman was a nay.

Berman asked Tokos to note that he didn't like "occupied" for tents in the staff report to the Council.

6. New Business.

A. FY 23/24 Goal Setting Session.

Tokos reviewed the Planning Commission and Community Development Department goals and objectives for this year. He explained that this was a way to provide feedback on any important issues that needed to be conveyed to the Council.

A discussion ensued regarding the need for locations and staffing for a low barrier shelter. Tokos noted they had an obligation to dial in housing up and down the income spectrum. Newport had added more multifamily units in the last few years than they had in decades, and there could be more coming in down the road. Udike asked if there had been any concerns about the budget capacity or budget cuts that they should be concerned about. Tokos thought the message that would come from city administration was that Newport had a hard time filling vacancies. This was more of a staff limitation concern, not a budget issue.

Tokos asked if there was anything else the Commission wanted to add to the goals. Patrick pointed out that many of the goals expanded over many decades. Tokos noted that there were certain things staff had to do through the department that were part of the day to day operations that ate up a lot of their time. There were legislative amendments that also took years to finish. Patrick pointed out that Newport had a good reputation with builders and developers that say when they come here they get helped.

Tokos asked if they were comfortable with moving forward with goals. The Commission was in general agreement to do so.

7. **Unfinished Business.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 8:50 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant